



**ASCAP's Survey and Distribution System:  
Rules & Policies**

**This document sets forth the rules and policies governing the ASCAP survey and distribution system, as adopted by ASCAP’s Board of Directors, as follows:**

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## **1. GENERAL PRINCIPLES OF THE ASCAP SURVEY**

**1.1** For many decades, ASCAP’s distribution of royalties to its members has been guided by certain basic principles. ASCAP’s goal is to design and implement an efficient survey and distribution system that enables ASCAP to track music use on radio, television, the Internet, live venues and other media, determine which music has been performed, and pay the appropriate writers and publishers. The ultimate purpose of the survey and distribution system is to ensure that royalty payments to members reflect fairly the value of performances in the various surveyed media, and that the methods and formulas employed for such distributions are disclosed fully and clearly to all members.

**1.2** “Follow-the-dollar” is the chief principle underlying the survey and distribution system: The royalty distributions made to members for performances in each licensed medium should reflect the license fees paid by or attributable to users in that medium.

**1.3** A second basic principle is that different types of performances have different values, even within the same medium. Those values should be reflected in a distribution system that gives appropriate weight to those different types of performances, and does so in an objective fashion that does not judge the subjective artistic merit of any work. The weights assigned to performances are set forth in the Weighting Formula, which are applied equally to all works regardless of their identity.

**1.4** Another important principle is that distributions be on a basis that gives primary consideration to the actual performance of members’ compositions as indicated by regularly conducted, objective and statistically valid surveys of performances in the various media licensed by ASCAP.

**1.5** Whenever feasible, ASCAP conducts census or sample surveys of the performances of the compositions of its members. The surveys are designed and reviewed periodically by an independent survey expert. If a sample is used, licensees or performances may be grouped so as to reflect differences in economic value of performances insofar as practical, taking into account the added costs and complexity of finer groupings. Sample surveys are selected randomly and weighted appropriately by the use of statistical multipliers that reflect the share of the hours or performances sampled from the various groupings. The size of the sample may differ among the various groupings, and may take into account survey costs and considerations of sampling

efficiency. Where survey costs and considerations of sampling efficiency make it impractical to conduct a sample survey of licensees or performances, proxies of performances in other media are used.

**1.6** The census and sample surveys are designed to reflect accurately the number and identification of performances and the revenue attributable to those performances. Economic multipliers are applied to the results of the census and sample surveys to reflect the proportion of ASCAP's revenue attributable to the various groupings of performances or licensees. In determining the revenue attributable to television network broadcasts and, by analogy, that attributable to certain other similar media, ASCAP takes into consideration the revenue received from affiliated stations' commercial announcements adjacent, and reasonably attributable, to network programs carried by the affiliates (often referred to as the "spot adjustment factor").

**1.7** Surveyed performances may be identified from a variety of sources, including recordings of broadcasts (analyzed by ASCAP's music experts), computerized program schedules obtained from industry sources, logs furnished by broadcasters and other music users, and cue sheets prepared by film and television program producers.

**1.8** There are billions of performances licensed by ASCAP each year. ASCAP is committed to distributing royalties for these performances to its members fairly, accurately, and efficiently.

## **2. THE ASCAP DISTRIBUTION SYSTEM**

**2.1** **Writer Distributions.** Each writer hereafter elected to membership will receive domestic royalties in accordance with the Current Performance Plan (as described in Section 3.1.3), based on performances of the member's works included in ASCAP's repertory and surveyed in the same survey quarter(s) as are then applicable for all other writer members.

2.1.1 A writer who was elected to membership before April 1, 2014 and receives distribution on the Current Performance Plan shall have an option prior to October 1 of each calendar year to receive distribution on the Averaged Performance Plan (as described in Section 3.1.2) effective for the first quarterly distribution in the succeeding calendar year.

2.1.2 A writer who receives distribution on the Averaged Performance Plan shall have the option to receive distribution on the Current Performance Plan effective for the first quarterly distribution in the succeeding calendar year.

2.1.3 An election made pursuant to Sections 2.1.1 or 2.1.2 must be made in writing prior to October 1 of each calendar year and shall apply to the first distribution in the succeeding calendar year and thereafter for a period of not less than four (4) calendar quarters beginning with the quarter in which it first becomes effective until cancelled by notice in writing. Notice of such cancellation given prior to October 1 of any year pursuant to Sections 2.1.1 or 2.1.2 shall be effective for the first distribution in the succeeding calendar year and shall apply thereafter for a period of not less than four (4) calendar quarters.

2.1.4 A writer who receives distribution on the Averaged Performance Plan and who receives \$25.00 or less in any domestic distribution in 2014 or later shall be switched to the Current

Performance Plan, effective for the succeeding quarterly distribution, and shall not thereafter be eligible to receive distributions on the Averaged Performance Plan.

**2.2 Awards.** ASCAP may make special awards to writer members whose works are substantially performed in media not surveyed by ASCAP, or whose works have a unique prestige value for which adequate compensation would not otherwise be received, as determined by an independent panel appointed for that purpose by the writer members of the Board of Directors, in a total amount not to exceed 0.5% of ASCAP's total distributable revenues.

**2.3 Publisher Distributions.** Each publisher member shall receive distribution of domestic royalties on a current performance basis as set forth in Section 3.2, "Publisher Distribution Formula."

**2.4 Foreign Distributions.** All members shall receive distributions of royalties remitted to ASCAP by affiliated foreign performing rights societies on the basis of performance data provided to ASCAP by such societies, less ASCAP's operating expenses incurred in processing such distributions. From time to time, affiliated foreign performing rights societies remit royalties to ASCAP for public performances in their respective territories, and the accompanying performance data does not list all of the writers shown in ASCAP's title database for a particular work. In those situations where the performance data can be matched to a particular work in the ASCAP title database, the royalties received for performances of such works will be proportionally divided among all ASCAP writers listed in ASCAP's title database, pursuant to their shares in ASCAP's title database.

**2.5 Credit Amounts.** ASCAP shall not promulgate any rules making distinctions as to the amount of credit given to various works or performances except as set forth in Section 4, "Weighting Formula."

**2.6 Public Domain Works.** ASCAP shall grant no performance credits to any member for performances of compositions occurring after they are in the public domain, provided, however, that ASCAP may grant performance credits to either a publisher member or a writer member, or both, for performances of copyrighted arrangements of public domain works where the recipient of the performance credit holds a valid existing copyright covering said arrangement.

**2.7 Distribution to Certain Non-Member Writers.** ASCAP may make distributions to writers who are not members of ASCAP with respect to their compositions published by ASCAP members, provided that performing rights in such compositions (1) have not been granted to any other performing rights licensing organization for performance in the United States, or (2) if granted, shall have been released by such organization. Any such distributions shall be computed in accordance with the Current Performance Plan, as described in Section 3.1.3.

**2.8 The Audio Feature Premium.** In the exercise of its business judgment, ASCAP may make additional payments in a survey quarter for works achieving high levels of Feature Performances in ASCAP's terrestrial radio, satellite radio and music streaming services surveys, respectively, as such levels shall be determined by ASCAP; provided, however, that such additional payments shall be based primarily on the number of Feature Performance credits or plays received by the works for performances in each such survey quarter. ASCAP may also

make such additional payments in a survey quarter for works that have accumulated 300,000 radio and television Feature Performance credits but do not otherwise achieve high levels of Feature Performances in the most recent four survey quarters in the media described above.

**2.9 Television Premium.** In the exercise of its business judgment, ASCAP may make additional payments for Theme, Background, and Feature Performances in highly rated syndicated series in five (5) groupings: (1) series on local television stations, (2) series on primetime network television, (3) series on daytime network television, (4) series on primetime cable and satellite television, and (5) series on daytime cable and satellite television.

**2.10 Cash Basis of Distributions.** All distributions are made on a “cash,” rather than an “accrual,” basis. Thus, for example, in each calendar quarter, a domestic distribution is made of the distributable revenue budgeted to be received during that quarter. The amount of each member’s distribution in that quarter is based on surveyed performances that occurred two (2) (for publishers) or three (3) (for writers) quarters previously, those prior performances representing a proxy of the performances which have occurred during the quarter for which distributable revenue is being paid. Resigned members receive distributions based only on the distributable revenue received through the date of their resignation, subject to ASCAP’s rules and regulations applicable to resigning members. For purposes of this provision, “distributable revenue” includes monies allocated for distribution pursuant to Section 2.2 or similar awards programs.

**2.11 Timing of Crediting and Payment.** All performances are valued on the basis of the statistical weights, distribution formulas, and credit values (“distribution rules”) in effect at the time of the distribution in which they are processed. ASCAP generally credits domestic performances based on a quarterly survey; symphony, recital and educational concerts and certain other live performances are processed annually. As noted in Section 2.10, quarterly distributions are based on performances that occurred two (2) (for publishers) or three (3) (for writers) quarters previously. In some cases, performances may be processed later than expected as, for example, due to late receipt of performance information. In such cases, performances are valued based on the distribution rules in effect at the time the performance information is processed. No interest is paid on distributions for any reason, including delay or late processing and delayed or late payment due to pending disputes with third parties.

**2.12 Adjustments to Crediting and Payment.** In each distribution quarter, adjustments may be required for performances already processed, and for which credits have already been generated, in prior distributions. Such adjustments may result, for example, from newly obtained information about member affiliation, share changes, durations of performances, and new title registrations. Because such adjustments apply to performances already credited, they result in a re-allocation of existing credits that were calculated at the time of the original distribution, using the distribution rules in effect at the time of the original distribution. No interest is paid on adjustments to distributions for any reason.

### 3. THE WRITER AND PUBLISHER DISTRIBUTION FORMULAS

#### 3.1 Writer Distribution Formula.

3.1.1 The writers' distributable revenues shall be computed for each calendar quarter and distributed quarterly.

3.1.2 *Averaged Performance Plan.* The following rules shall govern any distribution of the Averaged Performance Plan (revenues distributable under the "Current Performance Plan" shall be computed and distributed as provided in Section 3.1.3):

3.1.2(i) The Current Performance Distribution Fund. Distribution to each writer member (hereinafter called "writer") from this fund shall be calculated on the basis of the number of performance credits of such writer recorded during the most recent available fiscal survey quarter year multiplied by the performance credit value for that quarter year, multiplied by 20%.

3.1.2(ii) The Five Year Averaged Performance Distribution Fund. Distribution to each writer from this fund shall be calculated by (a) multiplying the individual writer's performance credits for the most recent 20 fiscal survey quarter years (including the current fiscal survey quarter year) in which the writer received distribution under this system by the corresponding performance credit value for each such quarter year, (b) averaging the results of those calculations and (c) multiplying the average by 60%.

3.1.2(iii) The Ten Year Averaged Performance Distribution Fund. Distribution to each writer from this fund shall be calculated by (a) multiplying the individual writer's performance credits for the most recent 40 fiscal survey quarter years (including the current fiscal survey quarter year) in which the writer received distribution under this system by the corresponding performance credit value for each such quarter year, (b) averaging the results of those calculations and (c) multiplying the average by 20%.

3.1.2(iv) Note on Computations. In computing distributions under this Plan, performance credits recorded during quarters when the member received payment on a current performance basis shall not be considered.

3.1.3 *Current Performance Plan.* An electing writer member shall receive a distribution each quarter which bears the same relationship to the share of distributable revenues to all electing writers as the writer member's current performance credits in the applicable fiscal survey quarter year bear to the total performance credits of all electing writer members for such period. The distributable revenue for all writers receiving distribution on a current performance basis (pursuant to this Section 3.1.3) shall be the total distributable revenue less amounts distributed pursuant to Section 3.1.2.

3.1.4 *Distributions to New Writer Members.* A writer member is a new member when first elected, or when re-elected if the writer had previously been a member of ASCAP or a member

or an affiliate of another United States performing rights licensing organization. ASCAP may accelerate all or part of the distributions to a new writer member for performance credits received pursuant to Section 3.1.3 above and performance credits recorded during the writer's first two (2) years of membership, provided that all new writer members are treated alike.

### **3.2 Publisher Distribution Formula.**

3.2.1 The publishers' distributable revenues shall be computed for each calendar quarter and distributed quarterly. A publisher member shall receive a distribution each quarter which bears the same relationship to the share of distributable revenues to all publishers as the publisher member's performance credits in the applicable fiscal survey quarter year bear to the performance credits of all publisher members for such period.

3.2.2 The first distribution to a new publisher member shall be made in the first fiscal distribution quarter following the publisher's election to membership and shall be based on the number of performance credits of such publisher in the fiscal survey quarter first serving as a basis for distribution to all other publishers, multiplied by the value of a performance credit for such quarter.

### **3.3 Distribution for Resigning Writer Members and Publishers**

3.3.1(i) If, in the case of a resigning writer or publisher member, ASCAP shall continue to have the right to license the performing rights in the United States to a work or works of such writer or publisher as a result of continued membership in ASCAP of one (1) or more of the members in interest with respect to such work or works, and if no other performing rights licensing organization has any such right, distributions shall continue to be made to such resigning member subsequent to his resignation from ASCAP—for so long as ASCAP retains such licensing right, and no other performing rights licensing organization has any such right—on the basis of performance credits recorded for such work or works. ASCAP may require a resigning member to acknowledge that ASCAP retains the right to license the resigning member's works as provided above, and that no other performing rights licensing organization has any such right. In the event such resigning member fails so to acknowledge, such resigning member shall not be entitled to any payment pursuant to these provisions.

3.3.1(ii) A writer or publisher member who has received an advance may not resign from membership before the advance has been fully recouped except that if an advance has not been fully recouped within five (5) years, the member may thereafter repay the unrecouped balance and exercise the right to resign.

3.3.2 With respect to all other works of the resigning writer or publisher member, distributions shall continue to be made to such resigning member subsequent to his, her or its resignation from ASCAP on the following basis:

3.3.2(i) An amount shall be calculated as to each of the funds described in Sections 3.1.2(i)-(iii) (or pursuant to 3.1.3) based on performance credits recorded for such works attributable to performances made in surveyed media under Licenses-In-Effect (as

defined in Section 1.11.3 of the Compendium of ASCAP Rules and Regulations, and Policies Supplemental to the Articles of Association);

3.3.2(ii) An amount shall be calculated as to each of the funds described in 3.1.2(i)-(iii) (or pursuant to 3.1.3) based on performance credits recorded for such works attributable to performances in media used as proxies for performances made under unexpired licenses in media not surveyed by the Society for four (4) quarterly distributions after the resignation of such member (and not thereafter), the first such distribution to be equal to the full amount of such performance credits, the second such distribution to be equal to 75% of such performance credits, the third such distribution to be equal to 50% of such performance credits, and the fourth such distribution to be equal to 25% of such performance credits.

## 4. THE WEIGHTING FORMULA

In awarding credit for a performance appearing in ASCAP's survey, no distinction shall be made on the basis of the identity or use of the work performed, except as provided in this Weighting Formula.

**4.1 Terms.** Please refer to Section 6: Defined Terms.

**4.2 Credit for Feature Performances.**

4.2.1 For radio performances, each Feature Performance of a work shall receive one (1) Use Credit for the first performance and 10% of a Use Credit for each subsequent performance on a Single Program, provided that no work shall receive more than two (2) Use Credits for a Single Program.

4.2.2 A Feature Performance of a Non-Qualifying Work on television, or performances in any other audio-visual medium, shall be computed on a per-second basis, pro-rata to the weight of one (1) Use Credit for a performance of one (1) minute in duration; provided, however, that in no event shall such performance receive more than two (2) Use Credits.

4.2.3 A Feature Performance of a Qualifying Work on television, or performances in any other audio-visual medium, shall receive one (1) Use Credit for a performance of up to one (1) minute in duration. A performance that is longer than (1) minute in duration shall be computed on a per-second basis pro rata to the weight of one (1) Use Credit for one (1) minute of performance; provided, however, that in no event shall such performance receive more than two (2) Use Credits.

4.2.4 If (i) analysis indicates that there are inaccuracies in listing the compositions performed or describing the manner of the performance on reports received for certain programs, and (ii) such information is prepared by a member or by a person associated with a member, and (iii) ASCAP does not have and the user or the member are unable to furnish ASCAP with a film, video, or other audio-visual recording of the program, then it shall be presumed that the works of the member were not Feature Performances on the program, in which case such usage would be treated as Themes or Background Music as appropriate.

### **4.3 Credit for Performances as a Theme, Background Music, Cue or Bridge Music, or Announcement.**

#### *4.3.1 Qualifying Works.*

4.3.1(i) A work complying with both of the following tests shall be treated as a Qualifying Work for its performance as a Theme, Background Music, Cue Music or Bridge Music, or announcement:

4.3.1(i)(a) an accumulation of 40,000 radio and television Feature Performance credits since October 1, 1959; and

4.3.1(i)(b) an accumulation of 10,000 radio and television Feature Performance credits during the five (5) latest available preceding fiscal survey years, toward which total not more than 3,000 credits shall be counted for any one (1) of such survey years; provided, however, that when a work accumulates 300,000 radio and television Feature Performance credits it shall be deemed to be in compliance with this test.

4.3.1(ii) Until five (5) years of records of Feature Performances are available the number of Feature Performance credits required pursuant to 4.3.1(i)(b) above shall be reduced proportionately to the number of years available. For a work whose first surveyed performance occurred within the five (5) latest available preceding fiscal survey years, the requirement of said 4.3.1(i)(b) shall be satisfied when the work has met the requirements of 4.3.1(i)(a) above and shall continue to be satisfied if in each subsequent year of such five (5) years the work receives one-fifth the number of Feature Performance credits required by said 4.3.1(i)(b).

4.3.1(iii) The number of performance credits needed to meet any requirements pursuant to 4.3.1(i) above is premised on an annual total of approximately 25,000,000 performance credits recorded in the ASCAP survey for ASCAP writer members; performance credits in years when the total number of performance credits recorded in the ASCAP survey was 20% greater or smaller than that number shall be adjusted proportionately.

4.3.1(iv) For works which in their original form were composed for a choral, symphonic or similar concert performance (including chamber music), the numbers of Feature Performance credits required by 4.3.1(i) shall be reduced to 20% of the numbers of Feature Performance credits prescribed therein.

#### *4.3.2 Non-Feature Performances on Radio.*

4.3.2(i) Each Non-Feature Performance on radio of any Qualifying Work will receive 5% of a Use Credit for the first performance and 0.5% of a Use Credit for each subsequent

performance on a Single Program, provided that no work shall receive more than one (1) Use Credit for a Single Program on radio.

4.3.2(ii) Each Non-Feature Performance on radio of any Non-Qualifying Work will receive 3% of a Use Credit for the first performance and 0.3% of a Use Credit for each subsequent performance on a Single Program, provided that no work shall receive more than one (1) Use Credit for a Single Program on radio.

4.3.3 *Themes.* When any work is performed as a Theme, it shall receive only 60% of a Use Credit for all such performances within the first hour of any Single Program regardless of the number of actual such performances, and for all additional such performances during the remainder of the program it shall receive only an additional 6% of a Use Credit per hour regardless of the number of actual such performances in the remainder of the program. For the avoidance of doubt, the 60% of a Use Credit weight shall include performances of the Theme as “bumpers” into and out of commercial or promotional announcements within the first 60 minutes of the program and the additional 6% of a Use Credit per hour weight shall apply to all such performances in the remainder of the program.

4.3.4 *Background Music, Cue Music and Bridge Music.*

4.3.4(i) When any Qualifying Work is performed as Background Music, Cue Music or Bridge Music, it shall receive the greater of (a) the credit for use of the work in a Single Program computed on a durational basis as provided in 4.3.4(ii) below or (b) 50% of a Use Credit for the first such performance on a Single Program, and only 5% of a Use Credit for each subsequent such performance on such program, provided, however, that in the event credit is computed as set forth in (b) of the 4.3.4(i) (this paragraph), no work shall receive more than one (1) Use Credit for a Single Program.

4.3.4(ii) Non-Qualifying Works written by the same writer or writers and published by the same publisher or publishers performed as Background Music, Cue Music or Bridge Music on each program shall receive, for each three (3) minutes duration in the aggregate for that program, 60% of a Use Credit; multiples or fractions of three (3) minutes shall be computed on a per second basis pro rata to the 60% Use Credit weight for three (3) minutes; provided, however, that in no event shall such performance receive less than 1% of a Use Credit.

4.3.4(iii) To determine Use Credits for performances in this classification where the time of actual performance cannot be established from the information available to ASCAP, 40% of the net program time will be considered as containing Background Music, Cue Music or Bridge Music and the computation of 60%, will be based on such computed time. Where condensed versions of a program are presented and the actual music performed on this condensed version is unknown, the 40% computation will be made on the net program time and applied pro rata to all of the Background Music, Cue Music or Bridge Music in the original program. Where it is determined that the amount of music on particular types of programs deviates more than 20% from the 40% computation (e.g., so that less than 32% of the net program time contains Background Music, Cue Music

and Bridge Music) the percentage applicable to these types of programs will be determined through periodic samples of the amount of program time on these types of programs containing Background Music, Cue Music and Bridge Music. Where the time is not given on the program or on a cue sheet available to ASCAP, in determining the Use Credit for each work the Background Music, Cue Music and Bridge Music time determined as above will be divided among uses on a pro rata basis. These samples also shall be used to determine the average duration of identified compositions when information on duration is not readily available to ASCAP.

#### 4.3.5 *Advertising, Promotional and Public Service Announcements, Logos and Jingles.*

4.3.5(i) Performance of any Qualifying Work in conjunction with an advertising or public service announcement (other than a Jingle), shall receive only 12% of a Use Credit for all such performances within the first 60 minutes of any Single Program regardless of the number of actual such performances, and for all additional such performances during the remainder of the program, shall receive only an additional 10% of 12% of a Use Credit per hour regardless of the number of actual such performances. Performances of any Non-Qualifying Work in conjunction with any advertising or public service announcement (other than a Jingle), shall receive only 5% of a Use Credit for all such performances within the first 60 minutes of any Single Program regardless of the number of actual such performances, and for all additional such performances during the remainder of the program, shall receive only 10% of 5% of a Use Credit per hour regardless of the number of actual such performances.

4.3.5(ii) Performance of any Qualifying Work in conjunction with a promotional announcement (other than a Jingle), sponsored by the network or station on which it appears, shall receive only 3.5% of a Use Credit for all such performances within the first 60 minutes of any Single Program regardless of the number of actual such performances, and for all additional such performances during the remainder of the program, shall receive only an additional 10% of 3.5% of a Use Credit per hour regardless of the number of actual such performances. Performances of any work as a logo and performances of any Non-Qualifying Work in conjunction with a promotional announcement shall be credited in the same fashion as a Jingle.

4.3.5(iii) When any work is performed as a Jingle it shall receive only 3% of a Use Credit for all such performances within the first 60 minutes of any Single Program regardless of the number of actual such performances, and for all additional such performances during the remainder of the program it shall receive only an additional 10% of 3% of a Use Credit per hour regardless of the number of actual such performances.

4.3.6 *General Limitation.* Anything to the contrary notwithstanding; two (2) or more works performed in an advertising, promotional or public service announcement shall receive in the aggregate the Use Credit, which would have been allocated to the work entitled to the greatest Use Credit if only one (1) work had been performed. The Use Credit for each such work shall be reduced pro rata.

4.3.7 *Infomercials.* If an Infomercial is five (5) minutes or less in duration, all musical works within that Infomercial shall be treated as advertising announcements pursuant to Section 4.3.4. If an Infomercial is greater than five (5) minutes in duration, all performances of musical works within that Infomercial will receive 40% of the otherwise applicable credit value. All other computational factors apply as set forth in this Section 4.

#### **4.4 Time-of-Day Factor for Television Programs.**

4.4.1 Performances of works on public television programs shall be credited as follows:

4.4.1(i) if the program begins between 1:00 a.m. and 6:59 a.m., 25% of the otherwise applicable credit;

4.4.1(ii) if the program begins between 7:00 a.m. and 12:59 a.m., 100% of the Otherwise Applicable Credit;

4.4.2 Performances of works on all other television programs shall be credited as follows:

4.4.2(i) if the program begins between 1:00 a.m. and 6:59 a.m., 25% of the Otherwise Applicable Credit;

4.4.2(ii) if the program begins between 7:00 a.m. and 12:59 p.m., 50% of the otherwise applicable credit;

4.4.2(iii) if the program begins between 1:00 p.m. and 6:59 p.m., 75% of the Otherwise Applicable Credit;

4.4.2(iv) if the program begins between 7:00 p.m. and 12:59 a.m., 100% of the Otherwise Applicable Credit.

4.4.3(i) For a program which begins in one (1) time period, as defined above, and extends into another time period, the applicable credit for all performances on that program shall be determined as follows:

4.4.3(ii) When more than half the program is in one (1) time period, that time period shall govern; when the program is divided equally between time periods, the time period having the higher applicable credit shall govern. However, performances of works on any program on a commercial broadcast television network that begins between 7:00 p.m. and 12:59 a.m. shall receive 100% of the Otherwise Applicable Credit, even if the program extends into another time period.

4.4.3(iii) For purposes of this rule, the time a network television program begins shall be New York broadcast time, except that if a network furnishes more than one (1) program to its affiliates at the same time, such as different football games to different parts of the network, the times such programs begin shall be the local times at the places the programs originate.

**4.5 Serious Works Four Minutes or Longer in Duration.** Works which require four (4) minutes or more for a single, complete rendition thereof, and which in their original form were composed for a choral, symphonic, or similar concert performance (including chamber music), shall receive credit on the following basis when performed on radio or television for the respective designated periods if time:

Minutes of Actual Performance	The Otherwise Applicable Credit Is Multiplied By:
4:00 to 5:30	2
5:31 to 10:30	6
10:31 to 15:30	12
15:31 to 20:30	20
20:31 to 25:30	30
25:31 to 30:30	40
30:31 to 35:30	50
35:31 to 40:30	60
40:31 to 45:30	70
45:31 to 50:30	80
50:31 to 55:30	90
55:31 to 60:30	100
Each additional 5 minutes or part thereof	10

**4.6 Concert and Symphony Performances.**

4.6.1 The license fees that ASCAP receives from concert and symphony halls shall be multiplied by four (4) in determining credits to be awarded for performances of works in concert and symphony halls. ASCAP shall reduce the product of the multiplication by the percentage of ASCAP's expenses of operation applied to domestic revenue. For performances in concert and symphony halls, points shall be awarded as follows:

POINTS AWARD

	MINUTES						
	Up to 5	6 to 10	11 to 15	16 to 20	21 to 30	31 to 45	46 to 60
<i>ENTERTAINMENT MUSIC</i>							
All Categories of Light or Standard Instrumental and Vocal Music	1	2	3	4	5	6	7
<i>SERIOUS MUSIC IN THE ORIGINAL FORM</i>							
(i) Works for 1 or 2 instruments with or without voice	2	4	6	8	10	12	14
(ii) Works for 3 to 9 instruments with or without voice	3	6	9	12	15	20	25

(iii) Works for small orchestra with or without voice	4	9	18	24	30	40	50
(iv) Works for full orchestra with or without voice	8	18	36	48	60	80	100

4.6.2 For works in excess of 60 minutes, pro rata on the basis of the 60 minute points. For purposes of the chart above, vocal parts shall be deemed to be instruments. The percentage of credit for arrangements of works in the public domain shall be determined in accordance with 5.7.

#### **4.7 Works Utilizing Public Domain Material.**

4.7.1 If a work contains public domain text and original music, it may receive from 50% to 100% of the Otherwise Applicable Credit depending on the extent and treatment of the public domain text within the context of the entire work.

4.7.2 Except as hereinafter specifically provided, any arrangement of a work in the public domain which is separately published or separately copyrighted in the United States shall receive 10% of the Otherwise Applicable Credit.

4.7.3 If an arrangement of work otherwise in the public domain is included in a copyrighted collection and does not qualify for the 10% credit under the preceding paragraph it shall receive 2% of the Otherwise Applicable Credit.

4.7.4 If a copyrighted arrangement of a work otherwise in the public domain contains text, it shall be deemed a vocal arrangement and may receive up to 100% of the Otherwise Applicable Credit, depending on the extent to which it embodies changes in the underlying composition as follows:

4.7.4(i) new lyrics up to 50%; or

4.7.4(ii) changes in the music up to 50%; in addition to any credit pursuant to 4.7.4(i).

4.7.5 If a copyrighted arrangement of a work otherwise in the public domain is primarily an instrumental work, it may receive up to 100% of the Otherwise Applicable Credit, depending upon the extent to which it embodies changes in the music as follows:

4.7.5(i) a transference from one medium to another, up to 35%; or

4.7.5(ii) a development of a work, which exhibits creative treatment and contains original musical characteristics and is identifiable as a set piece apart from the source material, up to 100%.

4.7.6 All weightings made pursuant to this paragraph shall be determined by ASCAP and may be reviewed by the Special Classification Committee for Public Domain Arrangements at the request of the member in interest.

**4.8 Limitation on Amounts Distributable Pursuant to Section 4.6.** If the distributable amount pursuant to 4.6 above shall exceed 3.6% of the total quarterly domestic distributions for that survey year, such distributable amount shall be reduced pro rata and limited to said 3.6%.

**4.9 Application of Weighting Formula Provisions.**

4.9.1 *Weighting Formula Provisions—Procedure.*

4.9.1(i) ASCAP has for some time been reviewing on a regular basis information received concerning performances on network and local television programs. This review is being conducted by means of audio and visual examination of programs. ASCAP uses video recording equipment in connection with this review.

4.9.1(ii) Particular attention will be given to programs which, considering the nature of the program, generate an unusually large number of performance credits. Such programs will be checked by listening and viewing, or both, and comparing the results with the music information appearing on the program logs or cue sheets received by ASCAP.

4.9.2 *Weighting Formula Provisions—Specific Situations as Guides in Application of Formula.* The Survey and Distribution Committee has prepared, and the Board of Directors has approved, a series of illustrations of the way in which the formula provisions would be applied to specific situations. They are not, it must be emphasized, an all-inclusive listing of all possible situations, and they will be supplemented from time to time as additional illustrations are felt to be appropriate.

4.9.3 The following are examples of performances that would be credited as Feature Performances under the Weighting Formula:

4.9.3(i) A performance of a composition which is announced or to which the attention of the audience is otherwise specifically directed by a participant on the program, even if the accompanying visuals do not exclusively focus on the musical performance.

4.9.3(ii) A performance as part of a song or dance act which constitutes the principal activity on the program at the time it is rendered, and for which the choreography is set to a specific piece of music making the dance a visual accompaniment to the featured music.

4.9.3(iii) A performance on an audience participation program where the activity taking place is the identification by the participants on the program of the composition being performed.

4.9.3(iv) Announced instrumentals at public spectacles such as football games.\*

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\* NOTE: A visual instrumental performance at a football game by a band which was actually viewed and heard by the television audience will be credited as a feature performance so long as the camera was focused on the band deliberately—that is unless the

4.9.4 The following are examples of performances which would not be credited as Feature Performances under the Weighting Formula:

4.9.4(i) A performance where the orchestra or instrumentalist appears visually for a brief period while a participant on a program, such as a quiz game, panel, audience participation or similar program, is passing by or while the camera is panning.

4.9.4(ii) A performance to introduce or accompany the following on quiz games, panel, audience participation or similar programs:

4.9.4(ii)(a) the description or presentation of prizes;

4.9.4(ii)(b) the appearance or departure of participants; or

4.9.4(ii)(c) the change of scene or subject.

4.9.4(iii) Unannounced instrumental performances during public spectacles such as football games. (Performances at football games other than those indicated to have occurred during halftime periods will be presumed to be Background Music). *See Note to Section 4.9.3(iv) above.*

4.9.4(iv) A performance used as Bridge Music to or from a commercial announcement or in a similar manner as a connective link.

4.9.4(v) A performance used as a “play-on” or “play-off.”

4.9.4(vi) Non-visual performance as accompaniment to magicians or clowns, or acrobatic or animal acts.

4.9.4(vii) Humming or whistling off camera in a television program shall not be regarded as a Feature Performance.

4.9.4(viii) A performance with a film clip, newsreel, or documentary of dancers, skaters, instrumentalists or singers is not credited as a Feature Performance unless the music heard by the viewer is the music written for or used in the original presentation as the music being danced to, skated to, played, or sung by the performers being shown on the television screen.

4.9.4(ix) So-called “Mickey Mousing” shall not receive feature credit. The term “Mickey Mousing” refers to scoring on a film or similar program in which the music is very closely synchronized with movements, animation, or other activity on the program. The term does not include an activity which constitutes a Musical Subject Matter.

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band was visible for only a fleeting moment while for example the camera was focused on someone who just happened to be passing by the band or while the camera was panning.

4.9.4(x) A performance in which the focus of audience attention is exercise movements (as, for example, in an exercise program) or a representation of exercise movements (as, for example, in a comic or dramatic scene) executed in time to music, whether referred to as “dancercise,” “aerobic dancing,” or otherwise.

4.9.5 The following are examples of performances which will be credited as Themes:

4.9.5(i) Any work regularly used as an identifying signature of all or part of a program or a personality even though more than one work is so used.

4.9.5(ii) Any work regularly used on a program to identify all or part of a program or a segment thereof, or a personality, even though the work is not used on every program.

4.9.5(iii) Any work regularly used on a program and which has either substantially the same lyrics or music and which introduces, illustrates, or depicts a continuing story, subject matter, segment, or set, or is itself a scene or segment.

4.9.6 Arranging materials will, generally, not receive any performance credit. Such materials are typically found in production numbers of the kind seen in television musical or variety programs and football halftime shows and include arranging materials, such as introductions, tag endings, interludes, transitional material or segues, counter melodies or improvisations based on the chord structure of the copyrighted principal work or works being featured. (The only arrangements entitled to credit are copyrighted arrangements of works in the public domain under Section 4.7 above).

4.9.7 Performances used at the opening and closing of made-for-TV movies, movies originally made for theatrical release and “mini-series” will be credited as Background Music unless they qualify for feature credit under 6.5 herein.

4.9.8 All generic references to “television” in the Weighting Formula shall apply to network, local, public and cable television and to audio-visual performances by internet, wireless and other new media licensees.

## **5. ANNUAL STATEMENTS**

### **Examine Your Statements – They Are Presumed to Be Correct Unless Objections Are Raised Within Nine Months.**

All statements issued by ASCAP during the “Annual Distribution Period” (defined below) comprise the “annual statement” to a member, as referred to in Article XV of ASCAP’s Articles of Association. Annual statements reflect all credited performances for an “Annual Distribution Period” and such statements are deemed received upon ASCAP’s issuance.

Pursuant to Article XV of ASCAP’s Articles of Association, any claims concerning writer member or publisher member distributions during any Annual Distribution Period must be made within nine (9) months from the end of that Annual Distribution Period. Accordingly, for

publisher members, the deadline for claims is December 31 of a given year (i.e., nine (9) months following the March royalty distribution of the same year). As an example, for publisher members to make a claim for the Annual Distribution Period beginning April 1, 2010 and ending March 31, 2011, ASCAP must receive such claim no later than December 31, 2011. For writer members, the deadline is January 31 of a given year (i.e., nine (9) months after the April royalty distribution). As an example, for writer members to make a claim for the Annual Distribution Period beginning May 1, 2010 and ending April 30, 2011, ASCAP must receive such claim no later than January 31, 2012.

## 6. DEFINED TERMS

**6.1** “*Annual Distribution Period*” means all distributions issued by ASCAP for a specific twelve (12) month period as follows: prior to and including March 31 of a calendar year for publisher members and prior to and including April 30 for writer members (i.e., for publisher members, the Annual Distribution period will start on April 1 of a certain year and will end on March 31 of the following calendar year; for writer members, the Annual Distribution Period will start on May 1 of a certain year and will end on April 30 of the following calendar year).

**6.2** “*Background Music*” shall mean mood, atmosphere or thematic music performed as background to some non-Musical Subject Matter being presented on a radio or television program. A performance which is a principal focus of audience attention shall not be regarded as Background Music regardless of the context in which performed. A Background Instrumental or Background Vocal Performance shall be presumed to be background music unless such performance is as a Theme or a Jingle or in conjunction with an advertising, promotional or public service announcement or logo.

**6.2.1** “*Background Instrumental Performance*” shall mean the performance of instrumental music occurring in the background of a scene where the musician or musicians are not seen by the viewing audience.

**6.2.2** “*Background Vocal Performance*” shall mean the performance of the lyrics of a composition occurring in the background of a scene where the musician or musicians are not seen by the television viewing audience.

**6.3** “*Bridge Music*” shall mean music used on a radio or television program as a connective link between segments or portions thereof.

**6.4** “*Cue Music*” shall mean music used on a radio or television program to introduce, but not to identify, a personality or event thereon. The term “cue music” includes, but is not limited to, introductions, “play-ons,” and “play-offs.”

**6.5** “*Feature Performance*” shall mean any performance which is a principal focus of audience attention and which constitutes a Musical Subject Matter on a radio or television program and is not performance as a Theme, Jingle, Background Music, Cue Music or Bridge Music, or in conjunction with advertising, promotional or public service announcement or a logo. A Visual Instrumental or Visual Vocal Performance shall be presumed to be a feature performance unless such performance is as a Theme or a Jingle or in conjunction with an

advertising, promotional or public service announcement or logo or is not a principal focus of audience attention.

**6.6** "*Infomercials*" shall mean programming that primarily serves to promote a product or service and where the producers of the content remunerate the broadcaster or distributor to disseminate the program to an audience. Other terms applicable to such content are "Paid Programming" or "Long Form Advertising".

**6.7** "*Jingle*" shall mean an advertising, promotional or public service announcement containing musical material (with or without lyrics), where (a) the musical material was originally written for advertising, promotional or public service announcement purposes or (b) the performance is of a musical work, originally written for other purposes, with the lyrics changed for advertising, promotional or public service announcement purposes with the permission of the ASCAP member or members in interest or (c) the performance is of a musical work, originally written for other purposes, which does not have at least 300 Feature Performance credits recorded in ASCAP's radio and television surveys during the five (5) preceding fiscal survey years.

**6.8** "*Musical Subject Matter*" shall mean the presentation in a program of an activity (i) which normally involves the performance of music—such as singing, playing a musical instrument, or dancing (including skating in a manner akin to dancing or ballet), and (ii) in which such music is the music written for or used in the original presentation as the work being sung, played, or danced to.

**6.9** "*Non-Feature Performance in Radio*" shall mean any performance of a musical work on radio that is not a Feature Performance.

**6.10** "*Non-Qualifying Work*" shall mean a work not meeting the criteria set forth in Section 4.3.1.

**6.11** "*Otherwise Applicable Credit*" shall mean the Use Credit or percentage of a Use Credit otherwise provided for in this Weighting Formula for a particular type of use of a Qualifying Work or Non-Qualifying Work.

**6.12** "*Qualifying Work*" shall mean a work meeting both of the criteria set forth in Section 4.3.1(a)-(b).

**6.13** "*Single Program*" shall mean a period of broadcasting which is presented by the same dominant personality, or is presented under substantially the same title, or is presented as a single show with separate segments. In the case of radio, if any such period of broadcasting is more than one (1) hour in duration each one (1) hour segment thereof shall be treated as a Single Program, and any remaining fraction of less than one (1) hour shall be treated as a Single Program. In the case of television, such period of broadcasting shall be the actual length of the television program.

**6.14** "*Theme*" shall mean a musical work used as an identifying signature of a radio or television personality or of all or part of a radio or television program or series of programs.

**6.15** “*Use Credit*” shall mean a full credit for a single performance.

**6.16** “*Visual Instrumental Performance*” shall mean a performance of instrumental music by a musician or musicians who are seen by the television viewing audience.

**6.17** “*Visual Vocal Performance*” shall mean the performance of the lyrics of a composition by a musician or musicians who are seen by the television viewing audience. This includes humming or whistling of the music of a composition.